

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA, In and for the County of Cochise

**JUDGE: HONORABLE JAMES L CONLOGUE,
DIVISION: FIVE
COURT REPORTER: AARON SCHLESINGER
INTERPRETER: NONE**

**AMY J. HUNLEY, Clerk of the Superior Court
by: CAROL ROLES (8/22/2019 3:35:36 PM), Deputy Clerk**

HEARING DATE: 08/22/2019

STATE OF ARIZONA, VS	Plaintiff	CASE NO: S0200CR201800989
PAULINO LOPEZ	Defendant	MINUTE ENTRY: JURY TRIAL DAY THREE - VERDICT HEARING START TIME: 9:09 AM HEARING END TIME: 2:18 PM

State Represented by: RUTH FAULKNER, Deputy County Attorney

Defendant present in person and by: ERIC MANCH, Esquire

Defendant in Custody: NO

At 9:00 a.m. this matter came regularly before the Court for trial before a jury – day three. Present in the courtroom are Defendant, Mr. Manch, Ms. Faulkner, and case officer Corporal Justin Dannels. The Jury is seated in the jury box.

The Court read aloud in open court the closing jury instructions. The closing jury instructions were marked as Court's exhibit 7 and filed in open court.

Ms. Faulkner presented closing argument.

Mr. Manch presented closing argument.

Ms. Faulkner presented final closing argument.

Upon direction of the Court, the clerk drew the name of one juror from an envelope containing the names of the nine (9) jurors.

The Court announced the name of juror EARL R. LOPEZ to serve as alternate juror in this case. The Court advised the alternate that he would remain under the admonition and that upon the jury reaching their verdicts, he would be notified and released from the admonition.

Upon direction of the Court, the clerk duly swore Francisco Esquer as the bailiff to take charge of the jury.

At 10:02 a.m. the jury exited the courtroom to begin deliberations.

Date: 8/22/2019 Case No.: S0200CR201800989
Minute Entry – Jury Trial Day Three - Verdict

Court called a recess for those remaining in the courtroom to await return of the verdicts.

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THE RECORD MAY REFLECT that during deliberations a question was submitted by a juror, marked for identification as Court's exhibit #8. After telephonic conference with both counsel, and upon their agreement, the Court prepared and submitted an answer to the jurors, marked for identification as Court's exhibit #9.

THE RECORD MAY FURTHER REFLECT that during deliberations a question was submitted by a juror, marked for identification as Court's exhibit #10. After telephonic conference with both counsel, and upon their agreement, the Court prepared and submitted an answer to the jurors, marked for identification as Court's exhibit 11.

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At 11:42 a.m. proceedings reconvened with the presence of the Defendant, Mr. Manch, Ms. Faulkner and case officer Corporal Dannels. The Jury is in deliberation.

The Court advised the parties that during deliberations a question was submitted by a juror, marked for identification as Court's exhibit 12. Discussion took place between the Court and counsel regarding the appropriate answer and, upon agreement by counsel, the Court prepared and submitted an answer to the Jury, marked for identification as Court's exhibit 13.

At 11:47 a.m. the Court called a recess, awaiting return of the verdicts.

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At 12:05 p.m. proceedings reconvened with the presence of the Defendant, Mr. Manch, Ms. Faulkner and case officer Corporal Dannels. The Jury is in deliberation.

The Court advised the parties that during deliberation a question was submitted by a juror, marked for identification as Court's exhibit 14. Discussion took place between the Court and counsel regarding the appropriate answer and, upon agreement of counsel, the Court prepared and submitted an answer to the Jury, marked for identification as Court's exhibit 15.

At 12:16 p.m. the Court called a recess, awaiting return of the verdicts.

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At 1:27 p.m. proceedings reconvened with the presence of the Defendant, Mr. Manch, Ms. Faulkner and case officer Corporal Dannels. The Jury is in deliberation.

The Court advised the parties that during deliberation a question was submitted by the foreperson, marked for identification as Court's exhibit 16. Discussion took place between the Court and counsel regarding the appropriate answer and, upon agreement of counsel, the Court prepared and submitted an answer to the Jury, marked for identification as Court's exhibit 17.

At 1:38 p.m. the Court called a recess, awaiting return of the verdicts.

Date: 8/22/2019 Case No.: S0200CR201800989
Minute Entry – Jury Trial Day Three - Verdict

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At 1:52 p.m. proceedings reconvened with the presence of the Defendant, Mr. Manch, Ms. Faulkner and case officer Corporal Dannels. The Jury is in deliberation.

The Court advised the parties that the foreperson had submitted a note, marked for identification as Court's #18, informing the Court that the Jury could not come to a unanimous decision on one of the charges and asked how to proceed. Discussion took place between the Court and counsel.

At 1:57 p.m. the Court called a ten-minute recess.

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At 2:05 p.m. proceedings reconvened with the presence of the Defendant, Mr. Manch, Ms. Faulkner and case officer Corporal Dannels. The Jury was called into the courtroom and seated in the jury box.

Upon inquiry by the Court, the foreperson did not believe there was any reasonable chance that a verdict could be reached on the weapons misconduct charge.

As the jurors were being brought into the courtroom a juror submitted a note with multiple questions.

The Jury was returned to the jury room to allow discussion to take place between the Court and counsel regarding the questions submitted.

At 2:10 p.m. the Jury returned to the courtroom and was seated in the jury box.

The Court announced that the Jury acknowledged through their foreperson that they were unable to render a unanimous verdict regarding the misconduct involving weapons charge and reached verdicts on the remaining three charges. The Court declared a MISTRIAL as to Count 1 of the Indictment.

THE RECORD MAY REFLECT the bailiff presented the envelope containing the verdicts to the Court. The Court opened the envelope and removed and reviewed the verdicts.

Upon direction of the Court, the verdicts so agreed upon were received, recorded and read by the clerk as follows:

OMITTING THE FORMAL PARTS

We, the Jury, duly empaneled and sworn in the above-entitled matter, do find the defendant PAULINO LOPEZ NOT GUILTY of unlawfully possessing drug paraphernalia, on or about the 11th day of October, 2018.

Signed by the foreperson

and

We, the Jury, duly empaneled and sworn in the above-entitled matter, do find the defendant PAULINO LOPEZ GUILTY of knowingly possessing methamphetamine, a dangerous drug, on or about the 11th day of October, 2018.

Signed by the foreperson

Date: 8/22/2019 Case No.: S0200CR201800989
Minute Entry – Jury Trial Day Three - Verdict

and

We, the Jury, duly empaneled and sworn in the above-entitled matter, do find the defendant PAULINO LOPEZ GUILTY of knowingly possessing marijuana, on or about the 11th day of October, 2018.

Signed by the foreperson

The Court individually polled the Jury, with each juror answering in the affirmative.

The Court thanked the jury for their service, released them from the admonition and excused them from further service in this matter.

IT IS ORDERED SETTING this matter for sentencing on **MONDAY, SEPTEMBER 23, 2019**, at 1:30 p.m. in Division FIVE of this Court.

A Presentence report shall be prepared by the Adult Probation Department and filed with the Court prior to the sentencing date.

Defense counsel requests notification of the presentence interview.

IT IS FURTHER ORDERED the Defendant be placed in the custody of the security officers to be remanded into the custody of the Sheriff Cochise County where he shall be held pending further proceedings in this matter.

THE RECORD MAY REFLECT that an Order of Confinement was filed in open court and a copy thereof was provided to the security officer for presentation to the Cochise County Jail transport officer.

At 2:18 p.m. proceedings were adjourned.

xc: e-mailed (e) by:cdr date: 8/22/19

County Attorney (e)

Eric Manch, Esq. (e) eric.manch@gmail.com

DIV FIVE JAA (e)

DIV FIVE APO (e)